

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

FOX VALLEY PRO BASKETBALL, INC.,

Plaintiff,

v.

Case No. 20-C-793

U.S. SMALL BUSINESS ADMINISTRATION, et al.,

Defendants.

**ORDER DENYING MOTION FOR TRO AND PRELIMINARY INJUNCTION,
DISMISSING CASE, AND DIRECTING ENTRY OF JUDGMENT**

On June 16, 2020, the court held a hearing on Plaintiff's motion for a Temporary Restraining Order (TRO) and Preliminary Injunction in the above matter. Plaintiff seeks to enjoin the Small Business Administration (SBA) and Jovita Carranza¹, as Administrator of the U.S. Small Business Administration (Administrator) or any commercial lender from denying an application by the plaintiff under the Paycheck Protection Program (PPP) on the sole basis that the plaintiff is a debtor in bankruptcy. Plaintiff also seeks a declaration that the interim rule promulgated by the SBA denying debtors eligibility for loans under the PPP violates the anti-discrimination provisions of 11 U.S.C. § 525(a) and exceeds the SBA's authority under the Administrative Procedures Act.

Following a hearing, the court determined that the action was barred under "sued and be sued" provision of the Small Business Act. That provision states that the SBA Administrator may:

sue and be sued in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or his property.

¹ Defendant Administrator of the U.S. Small Business Administration is Jovita Carranza, sued as Jovita Corranza. The Clerk is directed to correct the case caption.

15 U.S.C. § 634(b)(1) (emphasis added). Based on the plain language of the provision, the court concludes that this action for injunctive relief is barred.

Alternatively, and on the merits, the court concludes that Plaintiff has no likelihood of success on the merits. In reaching this decision, the court hereby adopts and incorporates herein the reasoning of Bankruptcy Judge Brett Ludwig in *Schuessler v. SBA*, Adv. Proc. No. 20-02065, 2020 WL 2621186 (Bankr. E.D. Wis. May 22, 2020). For the reasons stated therein as well as those placed on the record during the hearing, Plaintiff's motion for a Temporary Restraining Order and Preliminary Injunction are denied and this action is dismissed. The clerk is directed to enter Judgment of dismissal forthwith.

SO ORDERED at Green Bay, Wisconsin this 16th day of June, 2020.

s/ William C. Griesbach
William C. Griesbach, District Judge
United States District Court